

# EXHIBIT II



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MAR 17 2008

**OFFICE OF PETITIONS**

In re Application of :  
Burkett :  
Application No. 10/650,603 : ON PETITION  
Filed: August 28, 2003 :  
Attorney Docket No. ACS 65356 :  
(1747D) :

REQ FOR RECONSIDERATION DUE  
5-17-08

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2007, to revive the above-identified application.

The petition is DISMISSED.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 27, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on April 28, 2007. See MPEP 1215.04.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant

to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) .

No appeal brief appears to have been submitted with the instant petition. Accordingly, the instant petition lacks the required reply.

Any renewed petition must be accompanied by the required reply. The required reply may consist of an appeal brief, a request for continued examination (including submission and fee), a continuation application, or an amendment that places the application in condition for allowance.


Further correspondence with respect to this matter should be addressed as follows:

By Mail:           Mail Stop PETITION  
                  Commissioner for Patents  
                  P. O. Box 1450  
                  Alexandria, VA 22313-1450

By hand:           U. S. Patent and Trademark Office  
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                  Randolph Building  
                  401 Dulany Street  
                  Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

  
Alesia M. Brown  
Petitions Attorney  
Office of Petitions